



101 Constitution Avenue, NW • Suite 800 West • Washington, DC 20001
(202)772-2497 • Fax: (202)772-2496

Kent Knutson
Vice President
Government Relations

April 4, 2006

The Honorable Samuel Wright Bodman
Secretary of Energy
Forrestal Building
1000 Independence Avenue, SW
Washington, D.C. 20585

SUBJECT: California Petition **EE-RM-PET-100**

Dear Secretary Bodman

On behalf of The Home Depot, I am writing to express our opposition to the California Energy Commission's petition to waive the federal preemption of the standards on clothes washers currently before the Department of Energy.

The California Energy Commission (CEC) has promulgated energy efficiency standards that would conflict with federal standards on clothes washers. As required by federal law, if it wishes for these standards to be effective, the CEC must petition the Department of Energy to waive federal preemption over these standards. I urge you to reject the CEC request.

In order for California's request to be granted, they would have to show by a preponderance of the evidence "such regulation is needed to meet unusual and compelling state or local energy or water interests." These interests must be:

"substantially different in nature or magnitude from those prevailing in the United States generally, and are such that the costs, benefits, burdens and reliability of energy or water savings resulting from the State regulation make such regulation preferable or necessary when measured against the costs, benefits, burdens, and reliability of alternative approaches to energy or water savings or production, including reliance on reasonably predictable market-induced improvements in efficiency . . . "

Even if these threshold findings can be adequately demonstrated by the CEC, DOE still may not approve a preemption waiver if it can be shown that the state regulation will significantly burden manufacturing, marketing, distribution, sales or servicing of the product nationally.

Further, under the "safe harbor" provision, the regulation cannot be approved if it is likely to result in the unavailability in the state of any class of a federally covered product with certain performance characteristics, including reliability, features, sizes, capacities, and volumes that are "substantially the same" as those generally available.

We believe that their request does not meet the statutory standard for granting such a waiver, but also, we urge you to consider the broader implications if the CEC request were to be granted. The National Appliance Energy Conservation Act (NAECA) establishes federal standards for appliance products on a national basis. Its purpose is to provide consistent standards across the United States, and not allow for a patchwork of differing state standards. If DOE were to grant this petition, it would establish a separate standard in one of the most populous states, and would require manufacturers to produce different products for that state. That creates confusion, less choice and higher costs for the residents of California.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent Knutson", written over a light blue rectangular background.

Kent Knutson
Vice President, Government Relations
The Home Depot